

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

BARBARA ANN NICHOLSON,	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	
	:	1:10-cv-00795-JEC-AJB
ONEWEST BANK,	:	
Defendant.	:	

**POST HEARING BRIEF**

Plaintiff respectfully wishes to address the issues raised by the Court at yesterday's hearing and requests permission to do so.

The near unanimous authority is that there is no preclusion bar as a result of an order for relief from stay. See Grella v. Salem Five Cent Sav. Bank, 42 F.3d 26, 35 (1<sup>st</sup> Cir. 1994); D-1 Enterprise, Inc. v. Commercial State Bank, 864 F.2d 36 (5<sup>th</sup> Cir. 1989); In re Torco Equip. Co., 65 B.R. 353, 355 (W.D. Ky. 1986) (Bank); In re Martin, 2006 WL 3086361 (E.D. Va. 2006) (Bank) at fn. 4; In re Suggs, 377 B.R. 198 (8<sup>th</sup> Cir. BAP 2007); In re Ken Carpenter R.V. Inc., 177 B.R. 754 (D.N.H. 1995) (Bank). See generally In re Hurst, 409 B.R. 79, 83 (D. Md. 2009) (Bank).

The standards for posting a bond under Fed. R. Civ. Pro. 65 are set out in Corrigan Dispatch Co. v. Casa Guzman, 569 F.2d 300, 302-303 (5<sup>th</sup> Cir.

1978) (The Court “may elect to require no security at all.”); City of Atlanta v. MARTA, 636 F.2d 1084, 1094 (5<sup>th</sup> Cir. 1981).

Respectfully submitted,

/s/ Ralph Goldberg\_\_\_\_\_

Ralph Goldberg

Ga. Bar No. 299475

Attorney for Plaintiff

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**CERTIFICATE OF SERVICE**

This is to certify that on this day counsel of record for the opposing party in the foregoing matter was served with a copy of this document by depositing in the United States Mail copies of the same in properly addressed envelopes with adequate postage thereon or by notification of electronic filing.

John Andrle  
McCurdy & Candler, L.L.C.  
250 E. Ponce De Leon Avenue, Suite 600  
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This 20<sup>th</sup> day of April, 2010

/s/ Ralph Goldberg  
Ralph Goldberg  
Attorney for Plaintiff

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